



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

14741 Governor Oden Bowie Drive
Upper Marlboro, Maryland 20772
www.pgplanning.org

PGCPB No. 2020-117

File No. 5-20004

R E S O L U T I O N

WHEREAS, St. John Properties, Inc. is the owner of a 4.01-acre parcel of land known as part of Parcels 1 and 80, said property being in the 7th Election District of Prince George's County, Maryland, and being zoned Mixed Use-Transportation Oriented (M-X-T); and

WHEREAS, on June 30, 2020, St. John Properties, Inc. filed an application for approval of a Final Plat of Subdivision for four parcels; and

WHEREAS, the application for approval of the aforesaid Final Plat of Subdivision, also known as Final Plat 5-20004 for Maryland Science & Technology Center was presented to the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission by the staff of the Commission on July 9, 2020, for its review and action in accordance with the Land Use Article of the Annotated Code of Maryland and the Regulations for the Subdivision of Land, Subtitle 24, Prince George's County Code; and

WHEREAS, the staff of The Maryland-National Capital Park and Planning Commission recommended APPROVAL of the application; and

WHEREAS, on July 9, 2020, the Prince George's County Planning Board approved the aforesaid application.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to the provisions of Subtitle 24, Prince George's County Code, the Prince George's County Planning Board APPROVED Final Plat of Subdivision 5-20004, including a Variation from Section 24-122(a) of the Subdivision Regulations, for a modification of the location of the public utility easement, pursuant to the conditions of Preliminary Plan of Subdivision 4-16006.

BE IT FURTHER RESOLVED, that the findings and reasons for the decision of the Prince George's County Planning Board are as follows:

1. The subdivision, as modified with conditions, meets the legal requirements of Subtitles 24 and 27 of the Prince George's County Code and the Land Use Article of the Annotated Code of Maryland.
2. **Background**— The subject property is located on the north side of Melford Boulevard, east of its intersection with Lake Melford Avenue. The site is currently vacant and is the subject of a Preliminary Plan of Subdivision (PPS) 4-16006, approved by the Prince George's County Planning Board on March 9, 2017 (PGCPB Resolution No. 17-45), which approved the Melford Village subdivision and is composed of 256 lots and 50 parcels on 129.15 acres, in the Mixed Use-Transportation Oriented (M-X-T) Zone. The final plat of subdivision included in this application contains a total of four parcels and one public roadway (Robert Byrd Way), totaling 4.01 acres of the subject site.

This final plat of subdivision is in conformance with PPS 4-16006. However, the applicant requested the Planning Board's approval of a variation from Section 24-122(a) of the Prince George's County Subdivision Regulations, for the location of public utility easements (PUEs) along two public roadways, Lake Melford Avenue and Robert Byrd Way which are abutting the subject parcels to the north, west, and east, respectively. The public utilities are to be located within the public right-of-way, as discussed further.

3. **Setting**— The property is located on Tax Map 47, Grids E3 and F3, and in Planning Area 71B in the City of Bowie. The subject property abuts Melford Boulevard to the south, and is flanked by two public roads, Lake Melford Avenue to the north and west, and Robert Byrd Way (to be dedicated by the subject plat) to the east. Properties surrounding the subject site are all within Melford Village and within the M-X-T Zone.
4. **Development Data Summary**— The following information relates to the subject final plat of subdivision application.

	EXISTING	APPROVED
Zone(s)	M-X-T	M-X-T
Use(s)	Mixed Use	Mixed Use
Acreage	4.01 acres	4.01 acres
Lots	0	0
Outparcels	0	0
Parcels	4	4
Variance	No	No
Variation	No	Yes 24-122(a)

The requested variation from Section 24-122(a) was received on May 15, 2020, and heard on May 29, 2020, at the Subdivision and Development Review Committee meeting, as required by Section 24-113(b) of the Subdivision Regulations, as a companion request to this final plat of subdivision.

2. **Variation**—Section 24-122(a) requires the following:

Section 24-122-Public facilities requirements.

- (a) **When utility easements are required by a public utility company, the subdivider shall include the following statement in the dedication documents: Utility easements are granted pursuant to the declaration recorded among the County Land Records in Liber 3703 at Folio 748.**

The standard requirement for PUEs is 10 feet wide along both sides of all public rights-of-way. The subject property has frontage along three public roads: Melford

Boulevard to the south, Lake Melford Avenue to the west and north, and proposed Robert Byrd Way to the east. A 10-foot-wide PUE is provided on the subject site along Melford Boulevard, however, no PUEs are proposed along Lake Melford Avenue and Robert Byrd Way. The applicant provided a revised statement of justification dated June 4, 2020, incorporated by reference herein, addressing the approval criteria for a variation in order to eliminate the required PUEs along Lake Melford Avenue and Robert Byrd Way. Instead, PUEs are provided within the rights-of-way.

Section 24-113 sets forth the required findings for approval of a variation request as follows:

Section 24-113. Variations.

- (a) **Where the Planning Board finds that extraordinary hardship or practical difficulties may result from strict compliance with this Subtitle and/or that the purposes of this Subtitle may be served to a greater extent by an alternative proposal, it may approve variations from these Subdivision Regulations so that substantial justice may be done and the public interest secured, provided that such variation shall not have the effect of nullifying the intent and purpose of this Subtitle and Section 9-206 of the Environment Article; and further provided that the Planning Board shall not approve variations unless it shall make findings based upon the evidence presented to it in each specific case that:**

- (1) **The granting of the variation will not be detrimental to the public safety, health, or welfare, or injurious to other property;**

The applicant states that the public utilities will be located within the rights-of-way of Lake Melford Avenue and Robert Byrd Way, which are under the authority of the City of Bowie as the public road operating agency for this site. The alternate location provides for the availability of utilities to the site and surrounding properties. Therefore, the granting of this variation will not be detrimental to the public safety, health, or welfare, or injurious to other property.

- (2) **The conditions on which the variation is based are unique to the property for which the variation is sought and are not applicable generally to other properties;**

The applicant states that the circumstances for this property are unique, as the placement of PUEs is impacted by the existing historic Melford House and cemetery to the east of Robert Byrd Way, the existing pond to the northwest of Lake Melford Avenue, as well as existing features owned by the City of Bowie adjacent to the property. In addition, the property is subject to Conceptual Site Plan CSP-06002-01, which approved the Melford Village Design Guidelines. These unique guidelines call for the compact design of the subject site and adjacent properties. In order to achieve this design, utilities are called to be placed in the right-of-way. Therefore, in order to mitigate the impact of the

approved development on the surrounding site features, and in order to conform to the specific design guidelines set forth for the subject property, the application provides a compact development scheme on-site and nonstandard right-of-way design where utilities are placed within the right-of-way, warranting a variation from the required 10-foot-wide PUE.

(3) The variation does not constitute a violation of any other applicable law, ordinance, or regulation; and

The variation to Section 24-122(a) is unique to the Subdivision Regulations and under the sole authority of the Planning Board. This variation request was referred to the Potomac Electric Power Company (PEPCO), Washington Gas, Baltimore Gas and Electric (BG&E), Verizon, Comcast, and the City of Bowie. Separate easements will be provided for wet utilities, per the standard requirement. The City of Bowie responded in support of the variation request and Verizon returned comments indicating that, as long as a 10-foot-wide space is available for utilities, they have no issues with the request. Therefore, the variation will not violate any other applicable law, ordinance, or regulation.

(4) Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations is carried out;

Due to the particular physical surroundings, including the sensitive environmental and historic areas adjacent to the subject property, utilities will be integrated into the public right-of-way, instead of being provided in a standard 10-foot-wide PUE along either side of the public right-of-way. Following the strict letter of these regulations would create a particular hardship to the owner, with the implementation of the standard 10-foot-wide PUE, as it would have an impact on the adjacent historic and environmental features. In addition, the standard PUE would create a hardship for the owner in meeting the mixed-use development scheme approved in the CSP, for the subject site and surrounding properties.

(5) In the R-30, R-30C, R-18, R-18C, R-10A, R-10, and R-H Zones, where multifamily dwellings are proposed, the Planning Board may approve a variation if the applicant proposes and demonstrates that, in addition to the criteria in Section 24-113(a), above, the percentage of dwelling units accessible to the physically handicapped and aged will be increased above the minimum number of units required by Subtitle 4 of the Prince George's County Code.

The subject property is zoned M-X-T; therefore, this provision does not apply.

The Planning Board finds that the site is unique to the surrounding properties and the variation is supported by the required findings. The variation will not have the effect of nullifying the intent and purpose of the Subdivision Regulations, which in part, is to ensure that public utilities are available to serve the site.

3. **Referrals**—The requested variation was referred to Verizon, PEPCO, BG&E, Comcast, Washington Gas, and the City of Bowie. None of the referred agencies objected to the approval of this application.

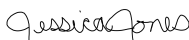
BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with Circuit Court for Prince George's County, Maryland within thirty (30) days following the date of notice of the adoption of this Resolution.

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This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Bailey, seconded by Commissioner Washington, with Commissioners Bailey, Washington, Doerner, Geraldo and Hewlett voting in favor of the motion at its regular meeting held on Thursday, July 9, 2020, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 30th day of July, 2020.

Elizabeth M. Hewlett
Chairman

By  Jessica Jones
Planning Board Administrator

EMH:JJ:AH:nz

APPROVED AS TO LEGAL SUFFICIENCY
David S. Warner /s/
M-NCPPC Legal Department
Date: July 20, 2020